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PATENT

IN THE UNITED STATES. PATENT AND TRADEMARK OFFICE

In re application of Marin Janusz, et al.

Serial No. 09/269,845

Filed: September 24, 1999

Attorney Docket No.: AAT/11612

For: COLOSTRININ,  
AND USES THEREOF

Group Art Unit: 1653

Examiner: Avis M. Davenport

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

DECLARATION

Sir:

1. I, Philip A. Curtis, am the legal representative of the applicants in PCT/GB97/02721 and its equivalent in the European Patent Office.
2. The first prior art reference cited in the International Search Report for PCT/GB97/02721 is A.D. Inglot et al., "Colostrinine: a Proline-Rich Polypeptide from Ovine Colostrum Is a Modest Cytokine Inducer in Human Leukocytes", Archivum Immunologiae et Therapiae Experimentalis, vol. 44, 1996, pages 215-224.

3. The International Search Report for PCT/GB97/02721 indicates that this reference was published in August 1996.

4. I have established that the information set forth in the International Search Report regarding the purported publishing date for this reference is wrong.

5. I have obtained letters from Archivum Immunologiae et Therapiae Experimentalis and its printer, Ossolineum, that establish that this reference was not published and distributed prior to October 8, 1996. Copies of such letters are attached hereto.

6. In addition, the European Patent Office has issued a letter accepting that there is no evidence that the cited reference was available to the public earlier than October 8, 1996. A copy of this letter is attached hereto.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 4th October 2000

  
Philip A. Curtis

# OSSOLINEUM

pl. Solny 14a, 50-062 Wrocław, Tel. (071) 343-69-61, Fax (071) 44-81-03



1817

Zakład Narodowy  
imienia  
Ossolińskich  
Wydawnictwo



Francine Tarry-Sergio  
Room 03.33, library  
Dept. ordering non patent in  
European Patent Office  
P.O. BOX 5818  
NL - 2280 HV RIJSWIJK (ZH)  
HOLANDIA

FAX: 0031 70 340 39 40

19 March 1998

Dear Francine Tarry-Sergio,

**RE: ARCHIVUM IMMUNOLOGIAE ET THERAPIAE..., VOL. 44, NO. 4 (1996)**

Further to your fax of 12 March 1998, we confirm that the the printing of the above title was produced on October 8th, 1996. After this date, this issue was dispatched to the subscribers and distributed on the market.

Yours sincerely,

Bożena Koczara  
Rights Executive

Redakcja: Tel. (071) 343-86-25

Dział Handlowy: Tel. (071) 343-86-26, 343-86-27

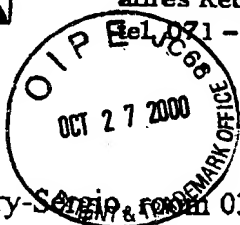
Konto: Wielkopolski Bank Kredytowy. Spółka Akcyjna w Poznaniu

Oddział we Wrocławiu nr 10901522-1078-128-00-0



**Archivum Immunologiae et Therapiae Experimentalis**  
**r k założenia 1953**

adres Redakcji: ul. Rudolfa Weigla 12, 53-114 Wrocław  
tel. 071 - 73 22 74 fax 071 - 679111



Francine Tarry-Sergio, room 03.33, library  
Dept. ordering non patent lit.  
European Patent Office  
Rijswijk, The Netherlands

Wrocław, March 16, 1998

Dear Sir/Madam,

In response to your fax message, sent on March 12, 1998, concerning the exact publication date of the document :

*Archivum Immunologiae et Therapiae Experimentalis*, vol. 44 no. 4, 215-224, 1996,  
I wish to supply you with the following message:

according to the information I got, the above mentioned vol. 44 no. 4 of *Archivum Immunologiae et Therapiae Experimentalis* was received by Ossolineum Publishing House in Wrocław, which is our Publisher, from Printing House on October 8, 1996. After this date this issue was distributed to the subscribers and dispatched to the public.

Sincerely yours,

H. Krotkiewski

Hubert Krotkiewski, Ph.D.  
Editor



Europäisches  
Patentamt  
GD 1

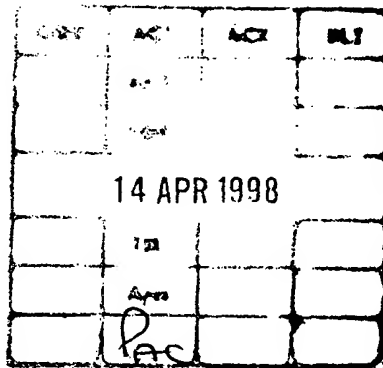
European  
Patent Office  
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Office européen  
des brevets  
DG 1

Mr P. A. Curtis  
A.A. Thornton & Co.  
Northumberland House,  
303 - 306 High Holborn,  
London WC1V 7LE  
United Kingdom

By fax (00 44 171 4053580)

Your Ref.: PAC/pac/18434



The Hague, March 30th 1998

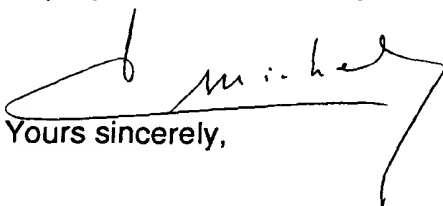
Dear Mr. Curtis,

In reply to your recent queries regarding the publication date of "ARCHIVUM IMMUNOLOGIAE & THERAPIAE EXPERIMENTALIS, Vol. 44, No. 4, 1996", and as already announced by Mr. Willis, I wish to inform you as follows:

The British Library has not confirmed that the publication actually took place in August of 1996. In addition, both the editor and the publisher have declared that the document was made available only after October 8th 1996. Photocopies of the declarations are enclosed for your information.

Assuming that no contrary evidence comes to light, and given the priority date of October 3rd 1996 in your application PCT/GB97/02721, we would expect that the category of the document, as cited in the international search report would, in the substantive examination procedure, be changed from "X" to "P,X". A copy of this letter and annexes will be entered in the European dossier EP97944005.4.

Hoping to have informed you adequately, I remain

  
Yours sincerely,

J. Michel, Vice-President